

LFC Requester:**Kelly Klundt**

**AGENCY BILL ANALYSIS
2016 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original ☐ **Amendment** ☒
Correction ☐ **Substitute** ☐

Date 2/2/2016

Bill No: HB 42a

Sponsor: Rep. William "Bill" R. Rehm

Agency Code: 305

Short DELINQUENCY ACT

Person Writing AAG James J. Torres

Title: TERMS & ABSCONDERS

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Relates to:

None

SECTION III: NARRATIVE

BILL SUMMARY

This analysis is neither a formal Attorney General's Opinion nor an Attorney General's Advisory Letter. This is a staff analysis in response to an agency's, committee's, or legislator's request.

Synopsis:

HB 42 has been amended by the House Judiciary Committee (HJC) to add the following language to subsection E of this bill (page 3, line 18, after the period): "Extension of the child's commitment under this subsection shall follow the procedures to extend a child's commitment in Section 32A-2-23 NMSA 1978." Subsection E of HB 42 would allow a children's court attorney to file a petition alleging that a child has willfully absconded from supervised release. If the court finds willfulness and that it is necessary to safeguard the child's welfare or the public's safety, the court may extend the child's commitment to a maximum of six months for a short-term commitment and one year for a long-term commitment, or until the child reaches the age of twenty-one.

FISCAL IMPLICATIONS

N/A

SIGNIFICANT ISSUES

The HJC amendment expands procedural safeguards to the extension of commitment contemplated in Subsection E. The required "(n)otice and hearing for any extension of a juvenile's commitment" contained in Section 32A-2-23 works to alleviate due process concerns.

Issues still exist relating to the types of warrants prescribed by this bill. HB 42 would create a new procedural distinction between children absconding within the state and outside of the state, the former requiring only a retake warrant issued by the department and the latter requiring a district court warrant in order to return the child. This new distinction between warrants lends ambiguity to proposed Subsection D, which states that a "warrant" shall trigger tolling of the supervised release period. It is unclear whether this subsection contemplates a district court warrant or a department retake warrant. Lastly, this bill strikes language from Subsection A requiring a contracted hearing officer to be neutral to the child. The purpose and effect of this amendment are unclear.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None

TECHNICAL ISSUES

N/A

OTHER SUBSTANTIVE ISSUES

N/A

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status Quo

AMENDMENTS

N/A